THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No. 19245 of 2005

Date: 08.09.2005

Between:

Managing Committee of Masjid-e-Nallagutta,
Rep. by its Secretary, Wajid Hasham Sait, s/o.
Mohd. Hasham, r/o. Nallagutta, Ramgopalpet,
Secunderabad

…Petitioner

and

1)A.P. State Wakf Board, rep. by its Chief Executive
Officer, Nampally, Hyderabad & another

…Respondents

ORDER:

Challenging the interference of the respondents with the right of management and administration of the petitioner-committee in

respect of Wakf Institution by name Masjid-e-Nallagutta and for a consequential direction to the first respondent to reimburse the rents collected by the Wakf Board, the present Writ Petition is filed.

The brief facts which are necessary for disposal of this Writ Petition are as follows:

The petitioner-committee is a registered wakf institution consisting of masjid and attached properties, which is under direct management of respondent-wakf board, and the elected committee would be Mutwalli of the said institution; the petitioner-committee was constituted as per the due procedure and is managing and administering the said wakf institution; the first respondent has been extending the term of the petitioner-committee from time to time and the last date of extension was on 07.01.2005 for one year; but, the respondents are persuading the tenants of the attached properties of the masjid not to pay the rents to petitioner and interfering with the management and administration of the committee; the first respondent is only supervisory authority, but has no proprietary right, in respect of the institution; hence, the Writ Petition.

The respondents filed counter affidavit admitting the power of petitioner-committee of management and administration in respect of the institution and contending that in order to raise income of the institution, the respondents deputed its officials to refix the rents for the area under occupation of the individuals and on receipt of report, notices were issued to tenants; subsequently, on receipt of representation, notices were issued to tenants and petitioner-committee for negotiation, but the petitioner-committee did not choose to attend the office; further as the tenants expressed their willingness to remit the rent directly to the Board, it is collecting the rents. It is further submitted that the rents received by the Board can be utilized for the wakf institution by submitting a representation to the respondent-board; that the respondent-board is not interfering with the day to day affairs of the mosque; the petitioner-committee has to

manage and administer the institution in accordance with rules; hence, it prayed to dismiss the Writ Petition.

The learned counsel for the petitioner contended that the term of the petitioner-committee is existing till 07.01.2006 and as per the proceedings dated 07.01.2005, the committee can maintain the institution with financial powers; now the wakf board has started collecting the rents thereby depriving the rights of legally constituted committee; hence, he prayed to allow the Writ Petition.

The learned standing counsel appearing for the respondents contended that since the committee was not willing to receive the rents, the tenants are approaching the wakf board and the wakf board is receiving rents and whatever the rents received from the tenants can be utilized by sending requisition from the petitioner-committee; therefore, he prayed to dismiss the Writ Petition. It is also submitted that the first respondent-wakf board is not at all interfering with the affairs of management of the wakf institution.

The proceedings dated 07.01.2005 with regard to the extension of term of petitioner-institution for a period of one year from 07.01.2005 to 07.01.2006 is not under challenge. As per the said proceedings, the committee constituted by the wakf board is empowered to manage the affairs of the institution including the financial matters. The grievance of the petitioner is that the board is interfering with the management of the institution by receiving rents from the tenants, thereby depriving the rights of duly constituted committee to administer the institution. The Chief Executive Officer of A.P.State Wakf Board, Hyderabad (first respondent) filed detailed counter affidavit stating that when the tenants appeared before the board on a notice issued by the board to refix the rents, the petitioner-committee did not choose to attend the office and therefore, they are paying the rents to the board. It is further stated that the committee can utilize the amounts received by the board after submitting a

requisition before the respondent-board. The counsel for the respondents stated that the board never collected rents from the tenants since that power has to be exercised by the petitioner-committee as per the proceedings dated 07.01.2005, and as the petitioner-committee is not receiving the rents, the board is receiving the rents. Under these circumstances, since the first respondent is not interfering with the management and administration of the subject institution, there is no need to give any direction. But, admittedly, some rents have been collected by the board. The board shall refund that amount on a specific requisition by the petitioner-committee.

With the above directions, the Writ Petition is disposed of. No costs.

(K.C.Bhanu, J.)

08.09.2005

DRK